

KENNETH E. KELLER (SBN: 71450) [kkeller@kksrr.com](mailto:kkeller@kksrr.com)  
MICHAEL D. LISI (SBN 196974) [mlisi@kksrr.com](mailto:mlisi@kksrr.com)  
KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP  
114 Sansome Street, 4<sup>th</sup> Floor  
San Francisco, CA 94104  
Telephone: (415) 249-8330  
Facsimile: (415) 249-8333

Attorneys for Defendant and  
Cross-Complainant PANOPTX, INC.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PROTECTIVE OPTICS, INC., a California  
corporation,

Plaintiff,

v.

PANOPTX, INC., a California corporation,

Defendants.

AND RELATED CROSS-ACTION

Case No.: C05-02732 CRB (EDL)

**STIPULATION AND ~~PROPOSED~~  
ORDER MODIFYING SCHEDULE FOR  
EXPERT DISCLOSURES AND REPORTS**

1 Plaintiff and Counterclaim-Defendant Protective Optics, Inc. ("Protective Optics") and  
2 Defendant and Counterclaimant Panoptx, Inc. ("Panoptx"), by and through their undersigned  
3 counsel, state and agree as follows:

4 WHEREAS, the parties have previously stipulated that with respect to those issues on which  
5 the party has the burden of proof, expert disclosures and reports would be due on May 8, 2007,  
6 responsive reports would be due on June 7, 2007, and the parties would simultaneously exchange  
7 rebuttal reports on June 21, 2007;

8 WHEREAS the parties further stipulated that, in light of the illness of Protective Optics'  
9 industry expert Kenneth Frederick, the parties would modify that schedule to permit Protective  
10 Optics to disclose an industry expert and to serve a corresponding report relating to trade secret  
11 misappropriation, willful infringement, secondary considerations of non-obviousness and market  
12 definition in this action by no later than June 7, 2007, and that Defendant Panoptx would have forty-  
13 five (45) days from June 7, 2007 (until July 22) to disclose a corresponding industry expert and  
14 serve a report in rebuttal to the opinions offered by Protective Optics' industry expert;

15 WHEREAS, because of the scheduling of various depositions, the parties have further agreed  
16 to extend by fifteen days the deadlines for the submissions of the remaining expert reports such that  
17 responsive expert reports and Protective Optics' industry expert report will be due no later than June  
18 22, 2007; the parties will simultaneously exchange rebuttal reports on July 6, 2007; and Panoptx's  
19 rebuttal report in response to Protective Optics' industry expert's report will be due no later than  
20 August 6, 2007;

21 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties to this action,  
22 by and through their respective counsel of record, and subject to the approval of the Court, that the  
23 deadlines for the submissions of responsive expert reports and Protective Optics' industry expert  
24 report is extended until June 22, 2007; the deadline for the parties' simultaneous exchange of expert  
25 rebuttal reports is extended until July 6, 2007; and that the deadline for Panoptx to disclose an expert  
26 and serve a corresponding report in rebuttal of Protective Optics' industry expert's report is  
27 extended until August 6, 2007.

**IT IS SO STIPULATED.**

Dated: May 25, 2007

KRIEG, KELLER, SLOAN, REILLEY & ROMAN LLP

By: \_\_\_\_\_/s/\_\_\_\_\_

MICHAEL D. LISI  
Attorneys for Defendant and Cross-Complainant  
PANOPTX, INC.

Dated: May 25, 2007

GREENBERG TRAURIG LLP

By: \_\_\_\_\_/s/\_\_\_\_\_

DANIEL T. McCLOSKEY  
Attorneys for Plaintiff and Counterclaim-Defendant  
PROTECTIVE OPTICS, INC.

I hereby attest that I have been authorized by Daniel T. McCloskey to execute on his behalf  
this Stipulation to Modify the Schedule for Expert Disclosures and Reports.

Executed on this 25th day of May, 2007 at San Francisco, California.

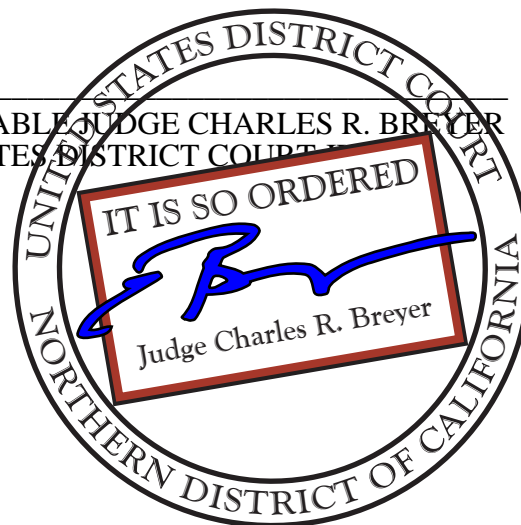
By: \_\_\_\_\_/s/\_\_\_\_\_

MICHAEL D. LISI

**IT IS SO ORDERED.**

Dated: May 29, 2007

THE HONORABLE JUDGE CHARLES R. BREYER  
UNITED STATES DISTRICT COURT



80115v2